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HOUSE BILL 1491

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Kirby, Campbell, Simpson, Hurst, Appleton, Williams, Wood, Santos, Chase, Ormsby and Morrell

Read first time 01/22/2007. Referred to Committee on Insurance, Financial Service & Consumer Protection.

1 AN ACT Relating to creating the insurance fair conduct act;  
2 amending RCW 48.30.010; adding a new section to chapter 48.30 RCW;  
3 creating new sections; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the  
6 insurance fair conduct act.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply  
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Insurer" means any insurer as defined in RCW 48.01.050.

10 (2) "Commissioner" means the insurance commissioner of this state.

11 (3) "Insured" means any individual, company, insurer, association,  
12 organization, reciprocal or interinsurance exchange, partnership,  
13 business trust, corporation, or other entity that has purchased  
14 insurance, and including any direct or third-party beneficiary to a  
15 policy of insurance issued to any insured.

16 (4) "Insurance claim" means any request by an insured for coverage  
17 or benefits under a policy of insurance.

1       **Sec. 3.** RCW 48.30.010 and 1997 c 409 s 107 are each amended to  
2 read as follows:

3       (1) No person engaged in the business of insurance shall engage in  
4 unfair methods of competition or in unfair or deceptive acts or  
5 practices in the conduct of such business as such methods, acts, or  
6 practices are defined pursuant to subsection (2) of this section.

7       (2) In addition to such unfair methods and unfair or deceptive acts  
8 or practices as are expressly defined and prohibited by this code, the  
9 commissioner may from time to time by regulation promulgated pursuant  
10 to chapter 34.05 RCW, define other methods of competition and other  
11 acts and practices in the conduct of such business reasonably found by  
12 the commissioner to be unfair or deceptive after a review of all  
13 comments received during the notice and comment rule-making period.

14       (3)(a) In defining other methods of competition and other acts and  
15 practices in the conduct of such business to be unfair or deceptive,  
16 and after reviewing all comments and documents received during the  
17 notice and comment rule-making period, the commissioner shall identify  
18 his or her reasons for defining the method of competition or other act  
19 or practice in the conduct of insurance to be unfair or deceptive and  
20 shall include a statement outlining these reasons as part of the  
21 adopted rule.

22       (b) The commissioner shall include a detailed description of facts  
23 upon which he or she relied and of facts upon which he or she failed to  
24 rely, in defining the method of competition or other act or practice in  
25 the conduct of insurance to be unfair or deceptive, in the concise  
26 explanatory statement prepared under RCW 34.05.325(6).

27       (c) Upon appeal the superior court shall review the findings of  
28 fact upon which the regulation is based de novo on the record.

29       (4) No such regulation shall be made effective prior to the  
30 expiration of thirty days after the date of the order by which it is  
31 promulgated.

32       (5) If the commissioner has cause to believe that any person is  
33 violating any such regulation, the commissioner may order such person  
34 to cease and desist therefrom. The commissioner shall deliver such  
35 order to such person direct or mail it to the person by registered mail  
36 with return receipt requested. If the person violates the order after  
37 expiration of ten days after the cease and desist order has been

1 received by him or her, he or she may be fined by the commissioner a  
2 sum not to exceed two hundred and fifty dollars for each violation  
3 committed thereafter.

4 (6) If any such regulation is violated, the commissioner may take  
5 such other or additional action as is permitted under the insurance  
6 code for violation of a regulation.

7 (7) An insurer engaged in the business of insurance may not  
8 unreasonably or negligently deny a claim for coverage or payment of  
9 benefits to any insured.

10 NEW SECTION. Sec. 4. A new section is added to chapter 48.30 RCW  
11 to read as follows:

12 (1) Any insured or beneficiary to a policy of insurance who is  
13 unreasonably or negligently denied a claim for coverage or payment of  
14 benefits by an insurer may bring an action in the superior court of  
15 this state to recover the actual damages sustained, together with the  
16 costs of the action, including reasonable attorneys' fees and  
17 litigation costs, as set forth in subsection (3) of this section.

18 (2) The superior court may, after finding that an insurer has acted  
19 unreasonably or negligently in denying a claim for coverage or payment  
20 of benefits or has violated the Washington Administrative Code,  
21 increase the total award of damages to an amount not to exceed three  
22 times the actual damages.

23 (3) The superior court shall, after a finding of unreasonable or  
24 negligent denial of a claim for coverage or payment of benefits, or  
25 after a finding of a violation of the Washington Administrative Code,  
26 award reasonable attorneys' fees and actual and statutory litigation  
27 costs, including expert witness fees, to the insured or any beneficiary  
28 of an insurance contract who is the prevailing party in such an action.

29 (4) The remedies set forth in this chapter are separate from the  
30 remedies prescribed by RCW 19.86.090 of the consumer protection act.

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